

**REMARKS**

In the Final Office Action, the Examiner states that in his opinion the references cited do not teach away from combination. However, in coming to this conclusion, it is respectfully submitted that the Examiner has ignored the first two elements of substantiating a rejection under 35 U.S.C. § 103(a), namely (1) “to provide some suggestion of the **desirability** of doing what the inventor has done,” and (2) demonstrating that “there must be a reasonable **expectation of success**.” MPEP § 706.02(j). Because of these deficiencies in the rejection, Applicant maintains the traversal of the Examiner’s rejection.

In the Office Action, the Examiner maintains the rejection of Claims 1-7 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,188,982 to Chiang in view of U.S. Patent No. 5,778,342 to Erell, et al.

Claim 1 recites in part:

generating means for generating said model that corresponds to such a state that said data do not exist, **on the basis of the noise that has been input at the time just preceding the inputting of said data**, and for updating that which is corresponding to it and is stored in said storing means. (Emphasis added.)

In the Office Action, the Examiner admits that, “Chiang does not disclose extracting noise from input just preceding the input of speech data.” The Examiner then suggests that, because Erell does allegedly contain such a teaching, it would have been obvious to one of skill in the art to combine the teachings of Chiang and Erell. It is respectfully submitted that such a combination would not have been obvious to one of skill in the art.

Chiang expressly teaches away from the suggested combination. Col. 4, lns. 2-5. of Chiang state that “[t]he **advantages** of this on-line PMC method over the conventional PMC method lies mainly in its **avoidance of the need to collect the background noise in advance**.”

Thus in this single sentence, Chiang teaches that it would be **undesirable** to have to collect background noise **in advance** of other pattern recognizing steps, as recited in the claims of the instant application.

Chiang further states:

[a]s is evident in actual applications, noise changes with time so that the conventional PMC method cannot be used to process speech in a nonstationary environment. This is true since there can be a significant difference between the background noise previously collected and the background noise in the actual environment. For this reason, the **conventional PMC is inadequate** for processing noises in a nonstationary state.

(Chiang, Col. 3, lns. 53-60) (emphasis added). Accordingly, Chiang teaches that there is no **reasonable expectation of success** in using convention PMC, which requires collecting background noise in advance, to recognize data patterns. Accordingly, because these two “basic criteria” have not been, and cannot be established, the Examiner has failed to present a *prima facie* case of obviousness. Further, it is respectfully submitted that because Chiang specifically teaches away from the combination applied by the Examiner, such a combination cannot be the basis of a rejection under 35 U.S.C § 103(a).

Accordingly, it is requested that the rejection to claim 1 be withdrawn. For similar reasons, the rejection of claims 6 and 7 should also be withdrawn. Claims 2-5 depend from claim 1, and the rejection of these claims should also be withdrawn.

In the event that the Examiner disagrees with any of the foregoing comments concerning the disclosures in the cited prior art, it is requested that the Examiner indicate where in the reference or references, there is the bases for a contrary view.

The Examiner has apparently made of record, but not applied, several documents. The Applicants appreciate the Examiner’s implicit finding that these documents, whether considered

alone or in combination with others, do not render the claims of the present application unpatentable.

**CONCLUSION**

In view of the foregoing remarks, it is believed that all of the claims in this application are patentable over the prior art, and early and favorable consideration thereof is solicited.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,  
FROMMER LAWRENCE & HAUG LLP

By:



Dennis M. Smid  
Reg. No. 34,930  
(212) 588-0800